

ROUGH DRAFT

PROPOSAL FOR INSERTION IN NEXT SUPPORT BULLETIN

Private Property Loss Claims

In two recent decisions, the Headquarters Board of Survey has found it necessary to recommend that the approving authority disapprove an employee's claim for loss of his personal and household effects due to fire. The losses suffered by these employees were more severe due to the lack of insurance coverage. The circumstances of these cases are summarized herein so that Organization personnel may be reminded of the necessity for making appropriate insurance arrangements to protect their personal property to the extent considered necessary.

As a general rule, civilian departments or agencies have no statutory authority to pay claims for personal property. Department of Defense components, however, do have such authority. Organization employees [REDACTED] should accordingly insure their privately-owned property against the risk of loss or damage while in transit, storage, quarters or other authorized places and situations if they do not wish to personally accept that risk. The Organization does not provide insurance for such purposes and is not ordinarily responsible for the private property. However, a claim from an employee might be approved under the provisions of Regulation [REDACTED] if loss or damage occurred without fault or personal negligence on the part of the claimant and if one of the following elements is present:

(1) When security or cover considerations preclude recovery from an entity which would otherwise be liable (e.g., insurer, public carrier, contractor [REDACTED]). In other words, the claimant has a valid claim against another party, but cannot process the claim because of security factors incident to service with the Organization.

(2) Where the Organization accepts responsibility for custody of the private property and/or maintenance of the premises in which the property is held, and where there is clear evidence of negligence attributable to the Organization. In this connection, note should be made that while quarters provided under authority of [REDACTED] are considered government quarters, primary consideration must necessarily be given to determining custodial and maintenance responsibility in processing claims under cited regulation. 25X1A

(3) Where the loss is definitely a result of performance of Organization operational duties.

In the first disapproved claim, an employee was transferred PCS overseas and the Organization provided services to the employee in arranging for pick-up and storage of his property by a commercial storage company, at Organization expense. The employee failed to insure because he indicated that he was not cognizant of that personal responsibility. He mistakenly assumed that the Organization was accepting total responsibility for the property and would do whatever was necessary in regard to insurance. Some time later, the storage contractor's warehouse was destroyed by fire. The contractor denied negligence and disclaimed responsibility for the loss of the employee's property (worth several thousand dollars) because the fire was probably attributable to a boy arsonist. The ~~original~~ original claim and an appeal were denied by the Organization because (1) there was no Organization custody, or responsibility for loss of the property and (2) claimant was not precluded by security/cover considerations from seeking relief by contesting the contractor's denial through legal action, or by claiming against a private insurer, and (3) claimant failed to carry insurance.

In the other disapproved claim, the Organization reimbursed the employee for rental of a private local residence which he leased near his overseas post, and

the Organization provided heaters for his benefit and custody. A fire destroyed the residence and all of the employee's clothing and household effects valued at several thousand dollars. The exact cause of the fire was not definitely established, ~~by~~ but the local fire department reported that the most likely cause was a possibly defective heater. Although the Board was not unmindful of the magnitude and circumstances of this loss, it was necessary to disapprove the claim because ~~the~~

(1) The Organization had no custodial responsibility for the property and no maintenance responsibility for the heaters or quarters, even though the premises fell within the definition of "government quarters". Claimant was responsible for daily care and operation of the heaters, and there was no evidence to indicate that the heaters were defective when issued.

(2) The claimant failed to carry insurance. The circumstances of his cover would not have precluded his making a claim against a private insurer.

(3) The loss was not related to security/cover factors of Organization service.

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Approved For Release 2000/08/29 : CIA-RDP78-04724A000200050028-9

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Proposal For Insertion In Support Bulletin

FROM:

Recording Secretary, Headquarters Board of
Survey

NO

DATE

26 January 1959

TO: (Officer designation, room number, and
building)

DATE

REC'D

FWD'D

OFFICER'S
INITIALSCOMMENTS (Number each comment to show from whom
to whom. Draw a line across column after each comment.)

1. 25X1A

DDS Attn. [REDACTED]

CAB

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1. The attached draft replaces the draft recently submitted in accordance with Mr. A's request. Several new words and phrases have been added in order to make the meaning clearer. HBS members and Legal Advisor have concurred.

25X1A [REDACTED]

1 to 2
Held for
Support Bulletin

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file. If separated from the file it must be
subjected to individual systematic review.

FORM
1 DEC 55

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